

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN FENERJIAN, et al.,
Plaintiffs,

v.

NONG SHIM COMPANY, LTD, et al.,
Defendants.

Case No. 13-cv-04115-WHO

**ORDER REGARDING STATEMENT IN
SUPPORT OF DISMISSAL BY KOREA
YAKULT AND PALDO CO.**

Re: Dkt. No. 152

Korea Yakult Company, Ltd. and Paldo Company, Ltd were named as defendants in the original consolidated direct and indirect purchaser complaints. The claims against them were dismissed with leave to amend. Dkt. No. 115. They now seek to be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) because they are not named as defendants in the amended and operative complaints and the time for amending pleadings has passed.¹ Dkt. No. 152.

Dismissal with prejudice is not appropriate at this point. There is no benefit to piecemeal appeals in this case, as I stated at the case management conference on December 16, 2014. Dkt. No. 155 at 8-9. It is also possible that plaintiffs in the future will try to show good cause to add Korea Yakult and Paldo as defendants in this action as a result of information learned in discovery.

Korea Yakult and Paldo mistakenly believed that they had an obligation to appear at future proceedings even though they are no longer named as defendants in either of the operative complaints. They have no such obligation unless they are brought back into the case.

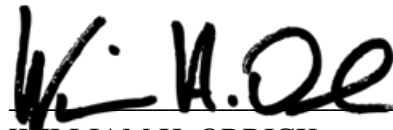
¹ The direct purchasers did not file an amended complaint. The indirect purchasers filed an amended complaint which did not name Korea Yakult and Paldo as defendants. Dkt. No. 121.

CONCLUSION

Korea Yakult's and Paldo's requests to be dismissed with prejudice are DENIED. Korea Yakult and Paldo are relieved of any obligation to appear at case management conferences or other hearings in this matter unless plaintiffs move, and the Court grants, a motion for leave to add them as defendants.

IT IS SO ORDERED.

Dated: March 30, 2015

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge